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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/027,458      | 12/21/2001  | Eldridge R. Byron    | SPE-33              | 1519             |

7590 03/08/2004

SQUARE D COMPANY  
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EXAMINER

EDELL, JOSEPH F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3636

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/027,458 | <b>Applicant(s)</b><br>BYRON ET AL. |  |
|                              | <b>Examiner</b><br>Joseph F Edell    | <b>Art Unit</b><br>3636             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the cabinet and the controller are indistinguishable in the figures wherein reference numerals 102, 104, 106, 108, 110, and 302 all appear to designate the cabinet. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 11, 16, 18, and 20, there is inconsistency between the language in the preamble of the claims that indicates the cabinet is being claimed and the body of the claims wherein the controller is positively recited, thereby making the scope of the claims indefinite. Applicant is required to clarify what the claims intend to be drawn to i.e., either the cabinet alone or the combination of the cabinet and the controller, and the language of the claims must be consistent with the intent.

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Regarding claims 3, 14, 19, and 22, the phrase "disposed adjacent to said first dimple" is unclear rendering the scope of the claims indefinite.

Claim 17 recites the limitation "said plurality of walls" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, and 20, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,124,881 to Motoki.

Motoki discloses a cabinet that includes all the limitations of claims 1, 4, and 20, as best understood. Motoki shows a cabinet having a plurality of walls (Fig. 6), a roof panel (Fig. 6) connected to the walls, an exhaust vent 33 (Fig. 6), a floor panel (Fig. 6) connected to the walls, a door 22a (Fig. 6), and a baffle 23b (Fig. 7).

6. Claim 20, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,574,624 to Rennie et al.

Rennie et al. disclose a cabinet that includes all the limitations of claim 20, as best understood. Rennie et al. show a cabinet having a plurality of walls (Fig. 1) and a baffle 42 (Fig. 2).

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7. Claim 20, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,710,402 to Karnbach et al.

Karnbach et al. disclose a cabinet that includes all the limitations of claim 20, as best understood. Karnbach et al. show a cabinet having a plurality of walls (Fig. 1) and a baffle 26 (Fig. 1).

8. Claims 1, 5, 6, and 23-26, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,767,440 to Byron et al.

Byron et al. disclose a cabinet that includes all the limitations of claims 1, 5, 6, and 23-26, as best understood. Byron et al. show a cabinet having a plurality of walls (Fig. 1), a roof panel (Fig. 1) connected to the walls, an exhaust vent 60 (Fig. 3), a floor panel (Fig. 1) connected to the walls, a door 32 (Fig. 3), a hinged flap 66 (Fig. 6), and a means for accessing the cabinet through a removable panel 32 (Fig. 4).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-12, 15-17, and 23-27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rennie et al. in view of U.S. Patent No. 2,064,439 to McWhirter.

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Rennie et al. disclose a cabinet that is basically the same as that recited in claims 7-12, 15-17, 23-27, as best understood, above except that the cabinet lacks a door, first and second members, a hinge, a channel, a seal, a panel, and a seal, as recited in the claims. Figures 1-10 of Rennie et al. show a cabinet having an exhaust vent, a flap covering the exhaust vent, and a hinge connecting the flap to the cabinet. McWhirter shows a cabinet similar to that of Rennie et al. wherein the cabinet has a plurality of walls (Fig. 1), a door 6 (Fig. 1), a first member 36 (Fig. 15) disposed parallel to one of the walls, a second member (Fig. 15) connecting the first member to one of the walls, a hinge (Fig. 15) connecting the door to one of the first member, the second member, and one of the walls, a channel 22 (Fig. 15) attached to the door and extending over the hinge wherein the channel receives an edge of the first member, a resilient seal 15 (Fig. 15) disposed between the edge and the channel, a latch mechanism 47 (Fig. 1) including a plurality of hooks (Fig. 3) and a strike assembly (Fig. 3) receiving the plurality of latch hooks, an opening (Fig. 4) bounded by first and second edges 52,53 (Fig. 12), an access panel 7 (Fig. 1) having a first surface (Fig. 4) and first and second panel edges 62,63 (Fig. 12) with first and second protruding members, and first and second resilient seals 15 (Fig. 12) disposed between the first surface and the first and second edges. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cabinet of Rennie et al. such that the cabinet has a door, a first member disposed parallel to one of the walls, a second member connecting the first member to one of the walls, a hinge connecting the door to one of the first member, the second member, and one of the walls, a channel

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attached to the door and extending over the hinge wherein the channel receives an edge of the first member, a resilient seal disposed between the edge and the channel, a latch mechanism including a plurality of hooks and a strike assembly receiving the plurality of latch hooks, an opening bounded by first and second edges, an access panel having a first surface and first and second panel edges with first and second protruding members, and first and second resilient seals disposed between the first surface and the first and second edges, such as the cabinet disclosed in McWhirter. One would have been motivated to make such a modification in view of the suggestion in McWhirter that the door with the resilient seal and the access panel with the resilient seal allows for accessibility to electrical components within cabinet while insuring that the door and access panel are waterproof.

11. Claims 2, 3, 13, 14, 18, 19, 21, and 22, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rennie et al. in view of McWhirter as applied to claims 7-12, 15-17, and 23-27, as best understood above, and further in view of U.S. Patent No. 5,137,340 to Cugley et al.

Rennie et al., as modified, disclose a cabinet that is basically the same as that recited in claims 2, 3, 13, 14, 18, 19, 21, and 22, as best understood, above except that the cabinet lacks a first and second dimples, first and second openings, and a fastener, as recited in the claims. Cugley et al. show a cabinet similar to that of Rennie et al. wherein the cabinet has a plurality of walls (Fig. 2), a first dimple 33 (Fig. 2) in a first surface of the wall, a second dimple (Fig. 1) in a second surface of the wal, a first opening (Fig. 2) in the first surface, a second opening (Fig. 1) in the second surface and

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in register with the first opening when the first dimple is mated with the second dimple, and a fastener disposed in the first and second openings mating the first and second dimples. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cabinet of Rennie et al. such that the cabinet has a first dimple in a first surface of the roof panel, the floor panel, one of the walls, or a structural member, a second dimple in a second surface of the roof panel, the floor panel, one of the walls, or a structural member, a first opening in the first surface, a second opening in the second surface and in register with the first opening when the first dimple is mated with the second dimple, and a fastener disposed in the first and second openings mating the first and second dimples, such as the cabinet disclosed in Cugley et al. One would have been motivated to make such a modification in view of the suggestion in Cugley et al. that cabinets with first and second dimples all neighboring cabinets to be releasably locked with one another.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to cabinets:

U.S. Pat. No. 2,645,743 to De Smidt

U.S. Pat. No. 2,774,808 to Bullock

U.S. Pat. No. 5,193,049 to Jackson

U.S. Pat. No. 5,689,097 to Aufermann et al.

U.S. Pat. No. 6,104,003 to Jones

U.S. Pat. No. 6,298,681 B1 to Esty et al.



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U.S. Pat. No. 6,382,749 B1 to Stetson    U.S. Pat. No. 6,410,844 B1 to Bruner et al.


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

2168.



JE  
March 3, 2004



Peter M. Cuomo  
Supervisory Patent Examiner  
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